

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA, ET AL.,

Plaintiffs,

v.

AMERICAN AIRLINES GROUP INC. and
JETBLUE AIRWAYS CORPORATION,

Defendants.

Civil Action No. 1:21-cv-11558-LTS

**DECLARATION OF ELISE M. NELSON IN SUPPORT OF
DEFENDANTS' OPPOSITION TO PLAINTIFFS' MOTION *IN LIMINE* NO. 2 TO
EXCLUDE EVIDENCE OF DEFENDANTS' ALLEGED CARVE-OUT ROUTES**

I, Elise M. Nelson, an attorney admitted to practice *pro hac vice* before the United States District Court for the District of Massachusetts, declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, as follows:

1. I am associated with the law firm of Latham and Watkins LLP, 505 Montgomery Street, Suite 2000, San Francisco, California 94111, attorneys for Defendant American Airlines Group Inc. ("American"), and a member in good standing of the bar of the State of California and the District of Columbia.

2. I was admitted to appear *pro hac vice* before this Court on June 13, 2022.

3. I submit this declaration in further support of Defendants' Opposition to Plaintiffs' Motion in *Limine* No. 2 to Exclude Evidence of Defendants' Alleged Carve-out Routes.

4. Attached hereto as **Exhibit A** is a true and correct copy of the Northeast Alliance Agreement Between American Airlines, Inc. and JetBlue Airways Corporation, dated July 15, 2020 (DX-0128).

5. Attached hereto as **Exhibit B** is a true and correct copy of a submission by Compass Lexecon to DOJ on behalf of American and JetBlue Airways Corporation, titled “Observations on DOJ Staff Concerns Related to the Northeast Alliance Between American Airlines and JetBlue Airways,” dated November 6, 2020 (PX0453).

6. Attached hereto as **Exhibit C** is a true and correct copy of an email from Robert Wark to Todd Homan, dated November 12, 2020 (AA-NEA-10526166).

7. Attached hereto as **Exhibit D** is a true and correct copy of an email from Robert Wark to Todd Homan, dated November 11, 2020 (AA-NEA-01526162).

8. Attached hereto as **Exhibit E** is a true and correct copy of a letter from Daniel M. Wall and Jessica K. Delbaum to Robert A. Lepore, dated November 12, 2020 (AA-NEA-01526168).

9. Attached hereto as **Exhibit F** is a true and correct copy of the Public Version of the Comments of the DOJ regarding the Joint Application of American Airline, Inc., British Airways PLC, Iberia Líneas Aéreas De España, S.A., Finnair OYJ, and Royal Jordanian Airlines seeking approval of and antitrust immunity for alliance agreements (DOT-OST-2008-0252).

10. Attached hereto as **Exhibit G** is a true and correct copy of an article by Ken Heyer et al., titled “The Year in Review: Economics at the Antitrust Division, 2008-2009” (DX-1068).

11. Attached hereto as **Exhibit H** is a true and correct copy of an email from Robert Wark to Todd Homan, dated November 21, 2020 (JBLU-LIT-03860904).

12. Attached hereto as **Exhibit I** is a true and correct copy of an email from Robert Wark to Todd Homan regarding the Draft Term Sheet for the DOT Agreement, dated November 30, 2020 (AA-NEA-01526175).

13. Attached hereto as **Exhibit J** is a true and correct copy of the Draft Term Sheet, dated November 30, 2020 (AA-NEA-01526176).

14. Attached hereto as **Exhibit K** is a true and correct copy of an email from Robert Wark to Todd Homan, dated December 3, 2020 (JBLU-LIT-01558510).

15. Attached hereto as **Exhibit L** is a true and correct copy of the DOT Agreement, dated January 10, 2021 (DX-0063).

16. Attached hereto as **Exhibit M** is a true and correct copy of a letter from Daniel Wall to DOJ, dated January 12, 2021 (DX-0185).

17. Attached hereto as **Exhibit N** is a true and correct copy of an email from Reese Davidson to Todd Homan et al., dated July 9, 2021 (JBLU-LIT-01552527).

18. Attached hereto as **Exhibit O** is a true and correct copy of an excerpt from the Expert Report of Nathan H. Miller, Ph.D., dated June 9, 2022.

19. Attached hereto as **Exhibit P** is a true and correct copy of excerpts from the transcript of the Deposition of Nathan H. Miller, Ph.D., on August 17, 2022.

20. Attached hereto as **Exhibit Q** is a true and correct copy of an excerpt from the Expert Reply Report of Nathan H. Miller, Ph.D., dated August 8, 2022.

21. Attached hereto as **Exhibit R** is a true and correct copy of an excerpt from the transcript of the Deposition of Dennis Carlton, Ph.D., on August 23, 2022.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on September 9, 2022 in Aptos, CA.

/s/ Elise M. Nelson
Elise M. Nelson

CERTIFICATE OF SERVICE

I hereby certify that the foregoing document, which was filed with the Court through the CM/ECF system, will be sent electronically to all registered participants as identified on the Notice of Electronic Filing.

/s/ Daniel M. Wall
Daniel M. Wall